

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 215 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE B.C.PATEL and
MR.JUSTICE R.R.JAIN

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MANA SARABHAI TRUST NO. 9

Versus

COMMISSIONER OF INCOME-TAX

Appearance:

Mr R.K.Patel, Advocate for the Applicant.
Mr Manish Bhatt, Advocate for the Respondent.

CORAM : MR.JUSTICE B.C.PATEL and
MR.JUSTICE R.R.JAIN

Date of decision: 11/07/96

ORAL JUDGEMENT

(Per B.C.Patel, J.)

The following question has been referred
to this Court under Sec. 256 (1) of the Income Tax Act,
1961 (hereinafter referred to as "the Act").

"Whether, on the facts and circumstances of the
case, the Tribunal was right in law in holding
that the assessee was not entitled to exemption
u/s. 47 (vii) of the Income-Tax Act, 1961 ?"

2. The Assessee was a holder of certain
shares in Shahibag Entrepreneurs Private Limited. In view
of amalgamation, the assets of this Company as also its
liabilities were transferred to another Company viz.
Alkapuri Investments Private Limited. As per the scheme,
Alkapuri Investments Private Limited was obliged to issue
and allot the shareholders of Shahibag Entrepreneurs
Private Limited one equity share of the face value of
Rs.100/- and two fractional certificate each representing
entitlement to 1/10th of one equity share and one 11%

redeemable bond of the face value of Rs.100/-.

3. The Tribunal relying on the decision of this Court in the case of Gautam Sarabhai Trust No.31 held that the Assessee is not entitled to exemption under Sec. 47 (vii) of the Act.

4. It is required to be noted that this Court in the case on which the reliance was placed by the Tribunal on a reference has held that the Assessee is not entitled to exemption under Sec. 47(vii) of the Act. [(1988) 173 ITR 216].

Thus, in view of this, the answer is required to be given in favour of the Revenue and against the Assessee. Accordingly, the question is answered against the Assessee and in favour of the Revenue. This reference is disposed of accordingly with no order as to costs.
